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May 26, 2021

Via ECF

The Honorable Joseph F. Bianco
United States Circuit Judge
United States Court of Appeals for the Second Circuit
1040 Federal Plaza
Central Islip, New York 11722

Re: United States v. Kenner, 13-CR-607

Dear Judge Bianco,

This office has been appointed as standby counsel to assist Phillip Kenner in his capacity as a *pro se* litigant. Mr. Kenner has requested that I file the accompanying May 7, 2021 article from the Washington Post, in support of his application for compassionate release. The article relates to Judge Colleen McMahon's recent comments, describing and criticizing conditions at the Metropolitan Detention Center during the COVID-19 pandemic. Mr. Kenner further asked me to relay the following statement, which he drafted for the Court:

"The article, quoting the Chief SDNY Judge, speaks to the real conditions that no other judge has correctly weighed in sentencing or affirmations of the true conditions at MDC (and MCC) since Judge Pollak in 2016. These are conditions that reside far outside of anything imagined by Congress when setting guidelines for sentencings. They are "extraordinary and compelling reasons" for Kenner, considering the 10-5-2020 sentencing date was only 6 months into the 14-month period of time that the Chief Judge identified as enough (if in her options) to eliminate a 5-year mandatory minimum and give time served for the 14-months. Kenner's 141 days of solitary (immediately post-sentencing--and during the 80% infection outbreak) doubles the 75 days identified as ridiculous by the former Chief Judge. These are not usual times -- and every mitigating option for sentence augmentation should be reasonable and on the table."

Thank you for your consideration of the enclosed material.

Respectfully submitted,

/s/

Matthew W. Brissenden

cc: All Counsel (*via* ECF)
Phillip Kenner